

# Exhibit 14

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

ORIGINAL

WAYNE BERRY,

Plaintiff,

vs.

FLEMING COMPANIES, INC., aka  
FLEMING FOODS, INC., aka FLEMING,  
DOE INDIVIDUALS 1-50 AND  
DOE PARTNERSHIPS, CORPORATIONS  
AND OTHER ENTITIES 1-20,

Defendants.

) CIVIL NO. CV 01 00446 SPK LEK

) (Copyright)

DEPOSITION OF WAYNE BERRY

Taken on behalf of Defendant Fleming Companies, Inc. at the  
Law Offices of Kobayashi, Sugita & Goda, Suite 2600, First  
Hawaiian Center, 999 Bishop Street, Honolulu, Hawaii,  
commencing at 9:10 a.m., on Wednesday, February 5, 2003,  
pursuant to Notice.

BEFORE:

Emi Albright, RPR/CSR 319  
Notary Public, State of Hawaii

1 APPEARANCES:

2 For the Plaintiff:

TIMOTHY J. HOGAN, ESQ.  
Lynch Ichida Thompson Kim  
& Hirota  
1132 Bishop Street, Suite 1405  
Honolulu, Hawaii 96813.

5 For the Defendant  
Fleming Companies, Inc.:

LEX R. SMITH, ESQ.  
ANNE E. LOPEZ, ESQ.  
Suite 2600, First Hawaiian Center  
999 Bishop Street  
Honolulu, Hawaii 96813

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1 Q Well, let me make it clear I am not talking about the  
2 things that were in litigation. I am not talking about your  
3 claim that Fleming has monopolized the grocery industry in  
4 Hawaii. I am not talking about the claims for collection of  
5 bills that we've asked for arbitration on and is pending in  
6 the Ninth Circuit.

7 So I am asking if there is anything else that Fleming has  
8 done that you feel or that Fleming has done to you?

9 A Do I understand your question to mean something other  
10 than financial?

11 Q Well, let's take out all financial matters for the time  
12 being.

13 MR. HOGAN: Are we clear this has nothing to do  
14 with the copyright infringement lawsuit as well?

15 MR. SMITH: Agreed.

16 MR. HOGAN: Okay.

17 A Nothing I can think of at the moment.

18 Q (By Mr. Smith) Okay. I'd like you, to start with, to  
19 provide me your educational background starting with where you  
20 went to high school and all formal education you received up  
21 to today.

22 A I went to Downey Senior High School in Downey,  
23 California. After that I went to Cal State University, Long  
24 Beach. If I remember correctly, after that I went to  
25 University of California Riverside.

1 Q What was your major at Cal State Long Beach, if any?

2 A I think the very first quarter it was psychology and the  
3 second quarter on through the years it was physics.

4 Q What year did you graduate Downey High School?

5 A 1973 or '74.

6 Q What years did you attend Cal State Long Beach?

7 A Shortly after high school. I'm not sure about the year.  
8 I took time off to work.

9 Q How many years did you attend Cal State Long Beach?

10 A I think I attended one.

11 Q Did you attend full time or part time?

12 A I don't remember the unit breakdown between full and part  
13 time.

14 Q Were you working at the same time you were in school?

15 A Yes.

16 Q Where were you working?

17 A I was working for a company called American Graphics.

18 Q What did you do there?

19 A I was a printing press operator.

20 Q What years did you attend -- what year or years did you  
21 attend University of California at Riverside?

22 A I don't remember the exact years. It was the late 1970s.

23 Q How many years did you attend?

24 A Again I don't remember. It was started and stopped  
25 because of working.

1 Q More than one year?

2 A Yes.

3 Q More than two years?

4 A I believe so.

5 Q More than three years?

6 A I just can't recall. I'd need to go back and look.

7 Q But you say it started and stopped because of working.  
8 So some of that time you weren't in school and some of the  
9 time you were; is that right?

10 A Yes, all through college it was start and stop.

11 Q What was your major during the time you were attending  
12 University of California at Riverside, if you had one?

13 A Physics.

14 Q Did you ever receive a degree?

15 A No.

16 Q You said you were working while you were attending UCR.  
17 Where were you working?

18 A Sometimes for American Graphics. I also had odd jobs,  
19 painting, things like that.

20 Q Where was American Graphics located?

21 A At that time it was located in Downey, California.

22 Q So you say painting and things like that were the other  
23 jobs that you had while you attended UC Riverside. Did any of  
24 your other jobs involve technology?

25 A No.

1 Q Since -- am I correct in understanding that you ceased  
2 attending classes at UCR at least by 1980?

3 A I'm not sure. It may have been '81. I'm just not sure.

4 Q After 1981 have you had any formal education anywhere?

5 A No.

6 Q Let's start with your employment history from the time  
7 you left UCR and bring me right up to today. And by  
8 employment, I don't mean whether you were an employee or not.  
9 I mean what did you do for a living or generate income to  
10 yourself from 1981 to present?

11 A First it was my father's old company, Administrative  
12 Specialties.

13 Q Approximately what years were you with Administrative  
14 Specialties?

15 A Ball park '80, '81 through '84.

16 Q Okay.

17 A It's the old family business. After that I was with a  
18 company called Paracom.

19 Q Can you spell that, please?

20 A P-a-r-a-c-o-m.

21 Q What years were you with Paracom?

22 A Seems like '85, '86.

23 Q And what did you do after Paracom?

24 A Worked with a company called Touchstone Computers.

25 Q What years were you working with Touchstone Computers?

1 STATE OF HAWAII )

2 ) SS.

3 I, Emi Albright, C.S.R., a Notary Public in and for  
4 the State of Hawaii, do hereby certify:

5 That on February 5, 2003, appeared before me WAYNE  
6 BERRY, the witness whose testimony is contained herein, that  
7 prior to being examined, the witness was by me duly sworn or  
8 affirmed; that the proceedings were taken in computerized  
9 machine shorthand by me and were thereafter reduced to print  
10 under my supervision; that the foregoing represents, to the  
11 best of my ability, a correct transcript of the proceedings  
12 had in the foregoing matter;

13 That the witness, if applicable, was notified  
14 through counsel, by mail, or by telephone to appear and sign;  
15 that if the transcription is not signed, either the reading  
16 and signing were waived by the witness and all parties, or the  
17 witness has failed to appear and the original is therefore  
18 kept on file without signature pursuant to Court rules.

19 I further certify that I am not counsel for any of  
20 the parties hereto, nor in any way interested in the outcome  
21 of the cause named in the caption.

22 Dated: FEB -7 2003

23  
24 *Emi Albright*  
25 Emi Albright, C.S.R. #319  
Notary Public, State of Hawaii  
My Commission Expires: July 8, 2004